

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Lloyd Hinn, Jr.,
Appellant,

v.

Hamilton County Board of Review,
Appellee.

ORDER

Docket No. 13-40-0184
Parcel No. 40882612400005

On February 28, 2014, the above-captioned appeal came on for consideration before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) (2013) and Iowa Administrative Code rules 701-71.21(1) et al. Appellant Lloyd Hinn, Jr. of HHB, Inc. Property Tax Consultants appealed on behalf of New Castle Players, LLC and requested a written consideration. Attorney Brett Ryan, Watson and Ryan, PLC, Council Bluffs, Iowa, is counsel for the Board of Review. The Appeal Board now, having examined the entire record, and being fully advised, finds:

Findings of Fact

Lloyd Hinn, Jr. protested on behalf of New Castle Players, LLC, the owner of property located at 411 Closz Drive, Webster City, Iowa. The real estate was classified commercial on the January 1, 2013, assessment and valued at \$1,574,940, representing \$134,000 in land value and \$1,440,940 in improvement value. According to the property record, the subject property is operated as an Americinn hotel/motel. It is a two-story building built in 2002 with 28,818 square feet of gross building area and 52 rooms. It has typical hotel accoutrements, such as paved parking area, yard lights, fencing, and signage, as well as an indoor pool and hot tub. The site is 3.52 acres.

Hinn protested the assessment to the Hamilton County Board of Review on the ground that the property was assessed for more than authorized by law under Iowa Code section 441.37(1)(a)(2). He asserted the correct fair market value is \$1,100,000. The Board of Review denied the protest.

Hinn then appealed to this Board.

There is an undated, unsigned letter to the Board of Review, which we presume Hinn authored. The letter asserts the Hamilton County Assessor valued the subject property by the cost approach and that this is not an accepted method of valuation “unless the property is new.” We note the subject improvements were built in 2002, and although not “new,” the cost approach would be a reasonable method to develop to form an opinion of value. However, Iowa law prefers the sales comparison approach for valuation before moving to other indications of value.

In support of his belief that the subject property is over-assessed, Hinn submitted two decisions from the Nebraska Tax Equalization Board for an eighty-room motel in Omaha, Nebraska; as well as an excerpt from THE VALUATION OF HOTELS AND MOTELS FOR ASSESSMENT PURPOSES by Stephen Rushmore and Karen E. Rubin. In his letter to the Board of Review, Hinn states the reason he provided the Rushmore/Rubin excerpt is that he believes it demonstrates the cost approach should not be used to determine the assessed value. We do not find these exhibits relevant in determining the market value of the subject property and give them no consideration.

Hinn also provided three spreadsheets that provide actual income and expenses for the subject property for 2010-2012 and an income analysis for each year. He does not provide any evidence that the actual income and expenses of the subject property are reflective of the market. Further, Hinn used a 14% loaded capitalization rate for all three years, but does not provide any evidence of how this was determined. Lastly, Hinn asserts a furniture, fixture and equipment (FF&E) expense of \$480,000; or \$6,000 per room. We note the subject has 52 rooms, which based on \$6000 FF&E expense per room would be \$312,000. Regardless of this apparent miscalculation, there is no supporting evidence for the

FF&E calculation or whether it reflects the market. Hinn believes, based on his analysis, a value for the subject property is indicated as follows:

2010 – \$1,184,352.71
2011 – \$1,197,026.64
2012 – \$1,165,982.57

He then averages the three years to conclude a 2013 value of \$1,182,453 and rounds this figure down to \$1,100,000. He provided no explanation for why he believes the value is less than the value conclusions he determined for the years 2010, 2011, 2012, or the average of those years. Ultimately, we do not rely on this evidence because Hinn used actual income/expenses rather than market expenses and did not provide support for his opinion of the capitalization rate or the FF&E. Moreover, we do not find that averaging actual income/expense value opinions from the last three years is a recognized method of valuation.

Hinn also provided a Market Value Review grid, which included three properties he considered comparable. He also provided information about each comparable, including LoopNet.com listings (a commercial real estate database) and property record cards. The unadjusted sale prices of the comparable properties ranged from \$1,050,000 to \$1,676,000. They sold between December 2011 and April 2012. Hinn did not adjust the sales. They have between 110 and 129 rooms compared to the subject property's 52 rooms. Furthermore, the properties are located in Des Moines, Iowa, and Omaha, Nebraska, and may require a location adjustment compared to the subject. Because the sales are unadjusted, we give this analysis no consideration.

Conclusion of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board

determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2). The property's assessed value shall be one hundred percent of its actual value. § 441.21(1)(a).

The sales-comparison method is the preferred method for valuing property under Iowa law. *Compiano v. Bd. of Review of Polk Cnty.*, 771 N.W.2d at 398; *Soifer v. Floyd Cnty. Bd. of Review*, 759 N.W.2d 775, 779 (Iowa 2009); *Heritage Cablevision v. Bd. of Review of Mason City*, 457 N.W.2d 594, 597 (Iowa 1990). "[A]lternative methods to the comparable sales approach to valuation of property cannot be used when *adequate* evidence of comparable sales is available to *readily* establish market value by that method." *Compiano*, 771 N.W.2d at 398 (emphasis added). "Thus, a witness must first establish that evidence of comparable sales was not available to establish market value under the comparable-sales approach before the other approaches to valuation become competent evidence in a tax assessment proceeding." *Id.* (citing *Soifer*, 759 N.W.2d, at 782); *Carlson Co. v. Bd. of Review of*

Clinton, 572 N.W.2d 146, 150 (Iowa 1997). Before relying on the income approach or other factors, a party or witness must first establish that comparable sales are not available to value the property.

Compiano, 771 N.W.2d at 397-99; § 441.21(2).

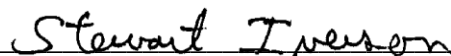
In an appeal alleging the property is assessed for more than the value authorized by law under section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Hinn provided three sales of hotel/motels, located in Des Moines, Iowa and Omaha, Nebraska. Hinn did not adjust the properties for differences. He also appears to primarily rely on the income approach to value. While we recognize commercial sale transactions are driven largely by income expectations, Iowa law indicates that evidence of comparable sales must be addressed before considering the income approach to value or other factors. *Compiano*, 771 N.W.2d at 397-99; § 441.21(2). Moreover, Hinn fails to show his income approach is supported by the market. For the foregoing reasons, Hinn has failed to show the subject property is over assessed.

THE APPEAL BOARD ORDERS the 2013 assessment of the property located at 411 Closz Drive, Webster City, Iowa, is affirmed.

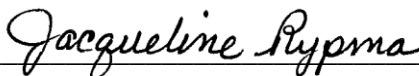
Dated this 25th day of March 2014.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair



Jacqueline Rypma, Board Member

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